Government of the District of Columbia
Department of Consumer and Regulatory Affairs

Forwarded By Mail and E-Mail

July 13, 2005

Honorable Jim Graham, Chairperson
Committee on Consumer and Regulatory Affairs
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 105
Washington, D.C. 20004

Dear Council Member Graham:

You, your constituents, and the Mt. Pleasant ANC have expressed dissatisfaction with the conversion of a three-unit apartment building to a seven-unit apartment building at 1636 Irving Street, NW. Let me first state that I apologize for the difficulty that this conversion has caused.

As you are probably aware, subsection 330.5 of the Zoning Regulations allows the conversion of a pre-1958 building to an apartment house, provided that there is a ratio of at least 900 square feet of lot area per unit. We issued a building permit at 1636 Irving Street, NW to allow the expansion under the mistaken assumption that the building was already an apartment building before 1958 and therefore not bound by the 900 square feet per unit limitation.

We later learned, once construction had been completed and the units sold, that this assumption and other calculations as to lot occupancy were in error. At that time, after balancing the relative equities involved and factoring in legal considerations, DCRA concluded that it would not force the owner to remove what was already constructed. This was not an easy decision, but one we think was appropriate given the unique circumstances we were facing.

Following are responses to the questions raised by Mr. Paul Basken, a resident whose property abuts 1636 Irving Street, N.W.

1. **What permits or certificates have you granted 1636 Irving Street, N.W. and on what dates?**

BZA
CASE No. 17411
EX. 3

Board of Zoning Adjustment
District of Columbia
CASE NO. 17411
EXHIBIT NO. 33

Response:

Permit Number	Purpose	Date
CO9912	Certificate of Occupancy - 7 unit apartment	6/10/05
B465646	Three story rear addition interior model as per plans.	9/9/04
PLBG 90706	Install fire sprinklers	1/27/05
PLBG 84658	Install bath tubs, showers, water closets, washer box, sinks, basins, water heaters, gas ranges	10/5/04
EL90500	Fire alarm, smoke detectors, pullstations and strobe/horns	1/24/05
EL88218	7-125 amps, 1-200 amps, 14 smoke detectors	12/7/04
B468513	Addition of one kitchen on first, second, and third floors. Converting 3 units into 7 units. Revision of previously approved addition.	12/17/04

2. **Who at DCRA told the developers that they could build a four unit building and then a seven unit building?**

Response:

On September 19, 2004, DCRA granted a building permit to allow a three story rear addition to an existing three unit apartment building at 1636 Irving Street, N.W., Washington, D.C. This permit, # B456646, also provided for the interior remodeling of the existing three unit apartment building into a four unit apartment building.

The second building permit (B468513) was issued on December 17, 2004. This permit provided for increasing in the number of units within the building from its previously approved four (4) units to seven (7) units.

While several staff members were involved in the approval of these permits, two of these staff members reviewed the applications for compliance with the District's Zoning Regulations. Both staff members were experienced with the Zoning Regulations. Neither is presently employed with DCRA.

3. **According to DCRA records, what past experience have these developers had in building in an R-4 zone?**

Response:

DCRA does not maintain information regarding the experience that developers have with building in an R-4 zone.

4. **Does the building as it now stands at 1636 Irving comply with all other zoning requirements. Does it match the blueprints submitted with the permit applications? In particular, does the building, including its balconies, exceed the 60 percent lot coverage limit? Does it setback on the east side violate a six-foot set back rule? Are the windows on the property on the west side legal? Is there any kind of relevant restriction to the effect that the residential portion of an apartment building cannot cover more than 40 percent of the lot? What are your numerical calculations of lot size and building size?**

Response:

The Department is retrieving the building plans to respond to these particular questions and will respond no later than Friday, July 15, 2005.

5. **What is your understanding of the last date at which any interested party could file for a BZA appeal of your decisions in this case?**

Response:

The regulation is reprinted below.

"11-3112. PRE-HEARING PROCEDURES FOR APPEALS

3112.1 The rules of procedure in this section apply to all appeals filed with the Board pursuant to §§ 3100 and 3200.

3112.2 Any person aggrieved by any order, requirement, decision, determination, or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, in the administration or enforcement of the Zoning Regulations may file a timely appeal with the Board as follows:

(a) An **appeal** shall be filed within **sixty (60)** days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier."

In closing, I can assure you that we have taken measures to make sure that such errors do not occur again and will pay particular attention to the rule limiting such conversions to 900 square feet of lot area per unit. Should you have further

questions regarding this matter, you may contact me directly or your staff person may contact Theresa D. Lewis, Chief of Staff, on 442-8937.

Sincerely,

Patrick Canavan, Psy.D.
Director

cc: Paul Baskin
Jack McKay, Chairperson
Mount Pleasant ANC 1-D